

REMARKS

I. Introduction

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 1-5, 7-33 and 37 are requested to be cancelled. The cancellation of claims does not constitute acquiescence in the propriety of any rejection set forth by the Examiner. Applicants reserve the right to pursue the subject matter of the canceled claims in subsequent divisional applications.

Claims 6, 35 and 36 are currently amended. Exemplary support for the amendment to claim 6 is found in the specification on page 7, line 7. Exemplary support for the amendment to claim 35 is found throughout the specification. *See, e.g.*, SEQ ID NO:8. Exemplary support for the amendment to claim 36 is found in the specification on page 6, line 8.

Claims 38-41 are currently added. Exemplary support for newly added claims 38-41 is found in the specification on page 7, line 7. Newly added claims 38-41 are added to further define claim scope.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

Upon entry of this Amendment, claims 6, 34-36 and 38-41 will remain pending in the application.

Because the foregoing amendments do not introduce new matter, entry thereof by the Examiner is respectfully requested.

II. Response to Issues Raised by Examiner in Outstanding Office Action

a. Claim Objections

Claim 35 is objected to as being a substantial duplicate of claim 34. Applicants have amended claim 35 to recite “consisting of SEQ ID NO:8” as suggested by the Examiner. Applicants respectfully request reconsideration and withdrawal of the objection.

b. Claim Rejections - 35 U.S.C. § 112, First Paragraph

Claim 6 is rejected by the Examiner under 35 U.S.C. § 112, first paragraph for lack of enablement. The Examiner asserts that while the specification provides enablement for a PP2C of SEQ ID NO: 8, the specification does not provide enablement for a PP2C having an amino acid sequence that is 90% identical to SEQ ID NO: 8. Applicants request reconsideration and withdrawal of the rejection.

Applicants respectfully disagree with the Examiner. However, to expedite prosecution, Applicants have amended claim 6 to recite “an amino acid sequence that is at least 95% identical to the full-length sequence of SEQ ID NO:8.” Using techniques well known in the art, as well as assays described in the specification on page 24, line 25, through page 25, line 4, a person of ordinary skill in the art could obtain the claimed polypeptides. Therefore, a person of ordinary skill in the art would not endure undue experimentation to obtain an amino acid sequence that is at least 95% identical to the full-length sequence of SEQ ID NO:8 and that has PP2C activity.

c. Claim Rejections - 35 U.S.C. § 102

Claims 6, 36 and 37 are rejected by the Examiner under 35 U.S.C. § 102 as being anticipated by Bandman et al. Applicants respectfully request reconsideration and withdrawal of the rejection.

Applicants have canceled claim 37. Therefore, the rejection of claim 37 moot.

With respect to claims 6 and 36, the Examiner asserts that Bandman et al. (WO 01/53469) teach human phosphatase of SEQ ID NO: 4, that is at least 90% identical to SEQ ID NO: 8 of the present invention. Applicants respectfully disagree. As shown in the

attached sequence alignment of SEQ ID NO: 4 of Bandman et. al. and SEQ ID NO: 8 of the present invention (Exhibit 1), the two sequences are only 89% identical.¹

Moreover, Applicants have amended claim 6 to recite “an amino acid sequence that is at least 95% identical to the full-length sequence of SEQ ID NO:8,” and claim 36 to recite “wherein said fragment comprises at least 450 contiguous amino acids of SEQ ID NO: 8.” Therefore, claims 6 and 36, as amended, are not anticipated by Bandman et al.

d. Claim 34

The Examiner asserts that claim 34 is allowed.

¹ Applicants note that page 7, lines 10-11 of the specification state that “[i]dentity is measured by dividing the number of identical residues by the total number of residues and gaps and multiplying the product by 100.”

CONCLUSION

The present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

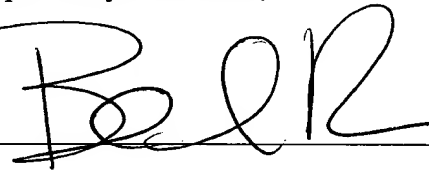
The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant(s) hereby petition(s) for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date

11 October 2004

By



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